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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	CR 16-00411 VC
	)	
Plaintiff,	)	UNITED STATES' NOTICE RE INTRODUCTION
	)	OF RECORDS GENERATED BY ELECTRONIC
v.	)	PROCESS OR SYSTEM, AND DATA COPIED
	)	FROM AN ELECTRONIC DEVICE, STORAGE
NAUM MORGOVSKY and	)	MEDIUM, OR FILE PURSUANT TO SELF-
IRINA MORGOVSKY,	)	AUTHENTICATION PROVISIONS OF FED. R.
	)	EVID. 902(13) AND 902(14)
Defendants.	)	
	)	Trial Date: June 13, 2018
	)	Pretrial Date: May 30, 2018, 1:30 p.m.
	)	Court: Honorable Vince Chhabria

The United States hereby gives notice that it may offer into evidence records generated by an electronic process or system pursuant to Federal Rule of Evidence 902(13), and data copied from an electronic device, storage medium, or file pursuant to Federal Rule of Evidence 902(14). The United

States has attempted to obtain stipulations from defendants Naum Morgovsky and Irina Morgovsky to introduce into evidence business records from the companies listed below, but as of the date of this filing defendants have failed to stipulate. At present, therefore, the United States anticipates calling as a witness Penni Price of the Federal Bureau of Investigation's Silicon Valley Regional Forensic Laboratory ("RCFL"), to testify regarding her electronic extraction of digital files seized from the defendants' residence during the search conducted on August 25, 2016. Ms. Price would testify that she extracted and imaged the files marked as Exhibits 80-99 and 101-199. All files were imaged from one computer identified as MacBook Pro, Model A1278, on a Toshiba SATA 750GG hard drive, Model MK7559GXS. Her report is identified as Exhibit 79 and titled "RCFL Report with Metadata." Those exhibits are listed below:

Exhibit No.	Description	Bates-Numbers
80	11/9/2007 Shipment from Hitek International to OOO NPK Infratech	shippermail1628[1].pdf
81	10/17/2008 Shipment from Hitek International to OOO NPK Infratech	shippermail1628.pdf
82	11/16/2008 Shipment from Hitek International to OOO NPK Infratech	Mult13.pdf
90	Statement of Cash Flows for Infratech	US11-001304-1305
91	Statement of Cash Flows for Infratech	US11-001309-1310
92	Statement of Cash Flows for Infratech	US11-001314
93	Statement of Cash Flows for Infratech	US11-001299-1300
94	Statement of Cash Flows for Infratech	US11-001294-1295
95	Infratech product manual (includes IT-333, 404 and 406)	US11-001282-1291
96	AIT brochure for 4x and 6x corruptor one scope has Infratech logo	3.Fin.Brosh_404-6_3.pdf
97	AIT brochure w/ IT marking on scope	204_Broshure_1.pdf
98	AIT brochure same as above w/ IT marking removed (edited same day)	204_Broshure_3.pdf
99	Video King invoice to Henryk Ciecierski on 12/20/2011	Henr12.20.11
101	March 25, 2015 Letter from Naum to Sun Creative	LeeterSunProblems1.doc
102	October 12, 2010 "Description" Letter	US-002092-93
103	Statement of Cash Flows for Infratech	US-002097-98
104	Statement of Cash Flows for Infratech	US-002101-02
105	Statement of Cash Flows for Infratech	US-002106-07
106	Statement of Cash Flows for Infratech	US-002110-11
107	Statement of Cash Flows for Infratech	US-002115-16
108	Statement of Cash Flows for Infratech	US-002120
109	Statement of Cash Flows for Infratech	US-002123-24
110	Statement of Cash Flows for Infratech	US-002129
111	Statement of Cash Flows for Infratech	US-002132-33
112	May 12, 2010 Letter to Naum concerning bank wiring instructions	US-002138
113	March 1, 2010 Letter to Naum regarding defects	US-002140

114	March 9, 2010 Letter to Naum regarding defects	US-002142
115	June 10, 2008 Letter to Naum regarding assembly status	US-002144
116	February 14, 2006 Letter to Naum regarding delivery of image intensifier tubes.	US-002146
118	Paystubs and associated materials for Christina Sortino	June16.pdf
118B	Paystubs and associated materials for Christina Sortino	1CEF7A393F8EAB9DF 439A9F211F8B2573EC CB_Paycheck4588_Dec1 9_09-01.pdf
119	November 2012 Infratech Price List	US-002148-49
120	November 2012 Infratech Price List	US-002154-55
121	Installation Instructions for Image Intensifier Tube into IT-320	US11-000123-145
124	May 25, 2012 Letter to Naum regarding defects [chart]	US-002159
125	February 15, 2012 Letter to Naum regarding discounts	US-002161
126	May 13, 2013 Letter from Vadim to Naum listing out products to include binder connectors	US11-001219
127	May 22, 2013 Letter to Naum with two items: Dormer product selector and AN/PEO	US-002163
128	8/11/2011 Invoice from Commerical Optics to Gero trading- for 62 optical converters	GerInv08.03.2011.doc
129	8/26/2011 Invoice from Commerical Optics to Gero Trading - for 150 optical converters	GerInv08.27.2011.doc
130	8/31/2011 Invoice from Commercial Optics to Gero Trading- for 99 optical converters	GerInv09.01.2011.doc
131	9/2/2011 Invoice from Commerical Optics to Gero Trading for - 12 optical Converters	GerInv09.03.2011.doc
132	2/28/2012 Invoice from Commercial Optics to Gero Trading for - 75 optical converters	GerInv02.28-0.2012.doc
133	December 9, 2011 task list	Henryk-Val.docx
134	September 29, 2011 Letter to Naum regarding receipt of package	US-002165
135	September 9, 2011 Letter to Naum regarding inquiry about products from flir and morovision.	US-002167
136	August 1, 2011 Invoice from Michael Drane to Lithuania	Litv08.01.11.doc
137	June 9, 2011 Invoice from Commercial Optics to Gero	GerInv06.09.2011.doc
138	March 16, 2011 Invoice from Video King to Lopez Lax	SCS.Inv.03.16.11.doc
151	Morovision Specification Sheet for Image Intensifier Tubes	ITTF9810SLN_F9810SL F_SPEC.pdf
152	Export Regulation Tracker alerts (4)	Justia Regulation Tracker Export privileges
153	Defense Industrial Base Assessment: U.S. Imaging and Sensors Industry, July 2006	NVreport.pdf
154	18 USC 371	US CODE Title 18_371_Conspiracy to commit offense or to defraud United States.txt
155	22 USC 2278	US CODE Title 22_2278_ Control of arms exports and imports.txt
156	August 26, 2008 Letter from Joseph Fradel to Sam's Storage authorizing unrestricted access for Irina Morgosky	To.doc
158	Infratech Price List 2007	US-002191

159	January 2008 Order for Gen. 2 Image Intensifier Tubes from Henryk Ciecierski	ORDER NO_01NM.doc
161	Instructions for installing and changing Image Intensifier Tubes	InstTube.doc
162	April 5, 2001 Letter from Naum to Mr. Jovanovski regarding shipment of Gen. 2 and 3 tubes to Macedonia	Magnlet4.5.01.doc
163	January 24, 1998 Letter from Naum to Hakko regarding sale of Image Intensifier Tubes	HAKK16.doc
164	October 26, 1998 Letter from Naum to Mr. Jovanovski	Magn2.doc
165	October 15, 1998 Letter from Naum to Mr. Jovanovski	Magn.doc
166	July 27, 1999 plan re: RUSSIAN TECHNOLOGY TRANSFER SCHEDULE	Phase2&3.Plan.doc
167	ITT Data Record	9800.pdf
168	March 20, 2013 Letter from Vadim to Naum	US-002193-2194
169	Letter from Vadim to Naum concerning Infratech 2012 Production Plan	US-002197-99
170	A payment invoice dated September 20, 2010 from supplier Hitek International to buyer Infratech for provided products.	US-002201-02
171	Recommendations for screen manual brightness control system tuning and installation	US-002205
172	March 13, 2006 Communication from Vadim	US-002205-06
173	March 8, 2006 Correspondence from Vadim	US-002209
174	April 7, 2008 Correspondence from Vadim to Naum	US-002212
175	May 10, 2007 Correspondence from Vadim to Naum	US11-001387
176	May 11, 2006 Correspondence from Vadim	US-002214
177	Attachment #1 to the Ministry of Defense from Hitek and OOO SDM	US-002216-17
178	October 20, 2009 PO from Infratech to Hitek	US-002220
179	List of Parts	US-002222-23
180	2016 Inventory	US-002226-35
181	Letter from Bellafonte Limited	US-002244
182	List of Discounted Products	US-002246
183	Description of new facility in Moscow	US-002248
184	Infratech Price List valid 1/05/2011	US-002250-51
185	October 27, 2014 Draft Letter from Infratech, signed by A.S. Sofine	US-002255
186	Minutes No. 825-AE/MO/1 of the Bid Review Meeting	US-002257-60
187	Completion Certificate for Military Operation Testing, May 2015	US-002265-69
188	Analysis Report No. 1 on the reasons for failure of product IT310	US-002275-76
189	October 28, 2014 Letter from Infratech to Defense Ministry of Russian Federation	US-002279
190	Undated Letter from A. Sofine to Defense Ministry of the Russian Federation	US-002281
191	Undated Letter from A. Sofine to Defense Ministry of the Russian Federation	US-002283
192	April 22, 2005 Contract between Global Vision and Infratech	US-002285-88
193	Letter from A. Sofine to RF State Duma Member regarding Argus and Infratech	US-002293-95
194	Hitek Invoice dated 4/23/2007 to Marius Yakovlev/Infratech	InfrInv4.23.07.doc
195	Commercial Optics Invoice to Gero Trading dated 4/26/2007	GerInvCO04.26.07.doc
196	Optics Express Invoice dated 8/2/2012 to FLC lists various lens assembly	Hitek International.docx

197	Interspace invoice to FLC (edited version of exhibit 196) lists various lenses	Interspace.docx
198	September 1, 2010 Letter from Vadim	US11-001226
199	Certificate of Acceptance and Transfer of Goods and Material Assets to Storage, July 18, 2014	US11-001233-1240

Under Rule 902 of the Federal Rules of Evidence, such records are self-authenticating if accompanied by an appropriate certification. Specifically, Rule 902 provides in pertinent part:

Rule 902. Evidence That Is Self-Authenticating

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

\* \* \*

(13) Certified Records Generated by an Electronic Process or System. A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification requirements of Rule 902(11) or (12). The proponent must also meet the notice requirements of 902(11).

(4) Certified Data Copied from an Electronic Device, Storage Medium, or File. Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital indention, as shown by a certification of a qualified person that complies with the certification requirements of Rule 902(11) or (12). The proponent also must meet the notice requirements of Rule 902(11).

Fed. R. Evid. 902(13) and 902(14).

The rule referred to in Rule 902 – *i.e.*, Rule 803(6) of the Federal Rules of Evidence – sets forth one of the hearsay exceptions. It provides as follows:

Rule 803. Exceptions to the Rule Against Hearsay – Regardless of Whether the Declarant is Available as a Witness

The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

\* \* \*

(6) Records of a Regularly Conducted Activity. A record of an act, event, condition, opinion, or diagnosis if:

(A) the record was made at or near the time by – or from information transmitted by – someone with knowledge;

(B) the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

(C) making the record was a regular practice of that activity;

1 (C) all these conditions are shown by the testimony of the custodian or another  
2 qualified witness, or by a certification that complies with Rule 902(11) or (12) or with a  
statute permitting certification; and

3 (E) the opponent does not show that the source of information or the method or  
4 circumstances of preparation indicate a lack of trustworthiness.

5 Fed. R. Evid. 803(6).

6 The United States has produced these records in discovery on various dates. The first two pages,  
7 US11-001318-1319, are signed by Ms. Price and constitute the certification. The report contains the  
8 extraction information (file name and path, creation date, modification date, author identity) and other  
9 metadata for the computer files that the government seeks to introduce at trial. As set forth in those  
10 documents, the declarations are from the custodian of records of the RCFL. The certifications comply  
11 with the requirements set forth in Rule 803(6)(A)-(C) and Rule 902(11).

12 DATED: May 16, 2018.

Respectfully submitted,

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14  
15 /s/ Erin Cornell

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